

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Verizon Wireless Petition Pursuant to 47)
U.S.C. § 160 for Partial Forbearance from the)
Commercial Mobile Radio Services Number)
Portability Obligation)
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WT Docket No. 01-184

To: Chief, Wireless Telecommunications Bureau

**COMMENTS OF DOBSON COMMUNICATIONS CORPORATION IN SUPPORT OF
FORBEARANCE**

DOBSON COMMUNICATIONS CORPORATION

Ronald L. Ripley
Vice President & Senior Corporate Counsel
Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, OK 73134

September 21, 2001

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Dobson Communications Corporation ("Dobson"), on behalf of its subsidiaries and affiliates, hereby files its comments in response to the Commission's Public Notice seeking comment on the above-captioned petition for forbearance ("Petition").¹ Verizon Wireless requests forbearance from the local number portability ("LNP") requirements of Section 52.31 of the Commission's rules, 47 C.F.R. § 52.31. For the reasons discussed below, Dobson supports Verizon Wireless's petition and urges the Commission to forbear from enforcing this requirement for all covered commercial mobile radio service ("CMRS") licensees.

I. THE COMMISSION MUST GRANT VERIZON WIRELESS'S PETITION

Dobson is a leading provider of rural and suburban commercial mobile wireless services throughout the country. Dobson has participated in industry efforts to identify the steps

¹ Public Notice, *WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless*, WT Docket No. 01-184, DA 01-1872 (rel. August 7, 2001).

necessary to support Mobile Identification Number ("MIN") and Mobile Directory Number ("MDN") separation, as required to implement LRN routing in a roaming environment.² For the reasons stated in the Petition, Dobson agrees that Section 10 of the Act, 47 U.S.C. § 160, mandates that the Commission not impose LNP on wireless carriers. Moreover, for the reasons discussed below, forbearance will serve Section 10's "public interest" prong by eliminating burdensome requirements for carriers serving smaller markets.

Section 52.31 requires that by November 24, 2002, Dobson's cellular and broadband PCS affiliates "provide a long-term database method for number portability, including the ability to support roaming," in the top 100 MSAs.³ Outside of the top 100 MSAs, the Commission initially intended that this rule would apply only to markets in which other carriers have requested LNP.⁴ This phased-in deployment approach was intended to ease the burden of LNP implementation for vendors and for carriers with markets outside of the top 100 MSAs – of which Dobson has many.⁵ As Verizon Wireless aptly discusses in its petition, however, the MIN/MDN separation that is necessary for both number pooling and number portability⁶ as a practical matter must be implemented by *all* covered carriers nationwide on a flash-cut basis in order to support roaming.⁷ Industry discussions have confirmed the substantial costs associated with LNP implementation, including (as discussed in the Petition) costs associated with point of

² The details of LRN routing methodology and MIN/MDN separation are discussed in detail in Verizon Wireless's Petition. See Petition, Appendix at 2-5.

³ 47 C.F.R. § 52.31(a).

⁴ See *Telephone Number Portability, First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236, ¶ 137 (1997).

⁵ See *Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, ¶¶ 81-82 (1996).

⁶ See *Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, Memorandum Opinion and Order*, 14 FCC Rcd 3092, ¶¶ 32-33 (1999).

sale systems, sales and customer service personnel training, and revisions of other administrative systems and hardware and software upgrades.⁸

It is clear, therefore, that the Commission's intent to mitigate the burdens of LNP on carriers like Dobson has been superseded by technological reality. As a practical matter, the very costs and burdens that the Commission intended not fall on smaller carriers must fall on *all* carriers, regardless of size. Section 10 forbearance will enable Dobson and other carriers to focus their more limited financial and personnel resources to other Commission-imposed network-related upgrades with a more compelling public interest basis, such as number pooling. Forbearance is consistent with the public interest for this reason as well.⁹ Moreover, forbearance is consistent with the Commission's "ongoing obligation to monitor its regulatory programs and make adjustments in light of actual experience."¹⁰ Grant of the Petition provides the Commission with the opportunity to do just this by modifying its rules to better reflect competitive conditions in the CMRS marketplace.

Finally, like Verizon Wireless, Dobson does not oppose number pooling. Dobson's rapidly-growing cellular and PCS affiliates, like other users of NANP number resources, are concerned for the availability of new number resources for customers and have experienced some of the same difficulties obtaining new number blocks as other carriers. Dobson shares Verizon Wireless's and other carriers' concerns that pooling and LNP be deployed simultaneously, and agrees that the Commission should address these related issues promptly.

⁷ See Petition, Appendix at 4-5.

⁸ See Petition at 12-13.

⁹ See 47 U.S.C. § 160(a)(3).

¹⁰ *Telocator Network of America v. FCC*, 691 F.2d 525, 550 n.191 (D.C. Cir. 1982).

II. FORBEARANCE SHOULD APPLY TO ALL CMRS CARRIERS

Under Section 10(c) of the Communications Act, the Commission has the express authority to forbear from applying any regulation or provision of the Act to a carrier or class of carriers requesting forbearance from any such regulation or statutory provision.¹¹ Importantly, the Commission's forbearance authority is not limited to the petitioning carrier or carriers; rather, the Commission has the authority to identify and extend the requested regulatory relief to a more broadly defined class of telecommunications providers.¹²

There is substantial precedent for this approach. In *Hyperion*, the Commission granted an individually filed petition for forbearance from tariff filing requirements for competitive access providers ("CAPs") and relieved not just Hyperion, *but all CAPs*, of their tariff filing

¹¹ 47 U.S.C. § 160(c).

¹² See *Hyperion Telecomm., Inc. Petition Requesting Forbearance, Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 12 FCC Rcd. 8596, (1997) ("Hyperion"); *Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers and Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, Memorandum Opinion and Order*, 13 FCC Rcd 6293, (1998) ("FCBA"); *Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 13 FCC Rcd 16857 (1998) ("PCIA"). Generally, the Commission has considerable discretion in interpreting the scope of a request for regulatory relief. See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance ("ITTA"), Report and Order in CC Docket No. 97-11, Second Memorandum Opinion and Order in AAD File No. 98-43*, 14 FCC Rcd 11364 (1999) (modifying Commission rules to grant blanket international 214 authority to all domestic carriers instead of granting ITTA's petition seeking forbearance from the application of Section 214 to mid-sized telephone companies); *ComTech Petition for Declaratory Ruling that Licensees of Nationwide 220 MHz Mobile Communications Systems are not Required to License Separately Each of the Systems Base Stations, Memorandum Opinion and Order*, 14 FCC Rcd 16779, (1999) (converting a petition for declaratory ruling to a Section 10 forbearance proceeding to more readily provide the requested relief).

III. CONCLUSION

Respectfully submitted,

By: _____/s/_____

September 21, 2001

¹⁵ See *FCBA* ¶ 23; *PCIA* ¶¶ 62-63.